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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,197	07/22/2005	Oliver Hartkopp	101215-192	5509
27387 7590 01/12/2009 NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER KOVALICK, VINCENT E				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/543,197

**Applicant(s)**

HARTKOPP, OLIVER

**Examiner**

VINCE E. KOVALICK

**Art Unit**

2629

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date 11/4/05 & 12/22/08.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**Response to Amendment**

1. This Office Action is in response to Applicant's Amendment dated November 3, 2008 in response to USPTO Office Action August 12, 2008

The amendments to claims 1-20 and the cancellation of claims 21-22 have been noted and entered in the record .

The 35 USC 102 rejection of claims 1-15 and 19-20 is herewith withdrawn.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5, 7-8, 14 and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of claims 5, 7-8, 14 and 18-20 include the phrase "and the like".

The phrase "and the like" is held to be indefinite because it is unclear what the applicant intends to cover by the use of the phrase "and the like"

(Ref. MPEP 2173.05(b), pgs. 2100-222 to 2100-223)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over May (USP 6,348,772) taken with Klein et al. USP 6,410,866).

Relative to claim 1, May teaches a control device (col. 1, lines 65-67; col. 2, lines 1-67 and col. 3 lines 1-50); May further teaches a control device with haptic feedback with at least one actuating element (col. 4, lines 1-14; Abstract and Fig. 1), and at least one positioning device (col. 2, lines 43-48, and Abstract); wherein the at least one actuating element can be displaced in at least one degree of freedom (col. 2, lines 50-61; col. 4, lines 3-27 and Abstract); the at least one actuating element includes at least one display device (col. 2, lines 43-48; col. 4, lines 17-27 and 61-67; col. 5, lines 1-3 and Fig. 6 item 15), and a force can be applied by the at least one positioning device to the at least one actuating element (col. 3, lines 3-17 and Fig. 1 item 4).

May **does not teach** at least one switching device.

Klein et al teaches an operating device (col.1, lines 38-67 and col. 2, lines 1-34); Klein et al. further col. 4, lines 3-27, teaches at least one switching device (col. 2, lines 36-38 and col. 3, lines 1-9).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide to the device as taught by May the feature as taught by Klein et al. in order to increase the application features or the haptic feedback device.

Regarding claim 2, May **teaches** the control device wherein the at least one display device can be freely programmed (col. 2, lines 39-42).

As to claim 3, May **teaches** the control device wherein the at least one display device is programmed so that the available display area of the at least one display device can be divided

into at least one display field (Fig. 6 item 9)

Regarding claims 6, May **teaches** the control device wherein at least one graphic object can be displayed by the at least one display device (Fig. 6).

Relative to claim 10, May **teaches** the control device wherein the at least one actuating element is guided in the hollow body in at least one spatial direction (Fig. 1)

Regarding claims 11, May teaches 11. the control device wherein the movement of the at least one actuating element in the at least one spatial direction is limited by a limit stop element (col. 4, lines 12-15).

As to claim 12, May **teaches** the control device wherein the control device is integrated in an operator island (Fig. 1).

Regarding claim 13, May **teaches** the control device wherein the operator island includes at least one operating element (Fig. 1).

Relative to claim 4, Klein et al. teaches the control device wherein the at least one switching device can be associated with the at least one display field and can be activated by a force applied to the at least one actuating element or the at least one switching device in the region of the at least one display field (col. 3, lines 3-10).

As to claim 9, Kline et al. teaches the control device comprises a hollow body with at least one opening (Fig. 1).

### **Allowable Subject Matter**

6. Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 15, major difference between the teachings of the prior art of record (USP 6,410,866, Klein et al. and USP 6,348,772) and that of the instant invention is that said

prior art of record does not teach the control device wherein at least one function of the at least one operating element and/or at least one state of the at least one operating element (30; 32) can be visualized with the at least one display device.

Regarding claim 16, major difference between the teachings of the said prior art of record and that of the instant invention is that said prior art of record does not teach the control device wherein the at least one display device includes at least one auxiliary touch sensor that supports selection of the at least one graphic object displayable by the at least one display device

#### ***Response to Applicant's Arguments***

7. Applicant's arguments filed November 3, 2008 have been fully considered but they are not persuasive.

Regarding Applicant's arguments relative to claim 1, in response to the language of claim 1, May (USP 6,348, 772) teaches a haptic feedback device including one actuating element (Abstract and Fig. 1 item 2); a positioning device (col. 2, lines 43-48) with an actuating element that can be displaced in at least one degree of freedom and comprising one region (col. 4, lines 3-27) and further teaches the actuating element including a display device (col. 2, lines 43-48, col. 4, lines 17-27 and 61-67, col. 5, lines 1-3, and Fig. 1, items 9 and 11) comprising a display field corresponding to a region of the actuating element (col. 4, lines 20-27); and a force being applied to a positioning device to the actuating element (col. 4, lines 3-17 and Fig. 1 item 4).

Kline et al. teaches a switching device arranged within the handle of an input device (col. 3, lines 1-4) and the switching device associated with a display field of a display device (col. 3, lines 54-65).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No.	6,337,678	Fish
U.S. Patent No.	6,211,861	Rosenberg et al..
U.S. Pub. No.	US 2003/0184574	Phillips et al.

***Final Action***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***To Respond***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VINCE E. KOVALICK whose telephone number is (571)272-7669. The examiner can normally be reached on Monday-Thursday 7:30- 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bipin Shalwala/  
Supervisory Patent Examiner, Art Unit 2629

/Vincent E Kovalick/  
Examiner, Art Unit 2629  
January 8, 2009